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from the testator for the use of the land by him—for to this she had no legal right—but a bequest of a sum of money equivalent to that rent, and she was in consequence entitled to the whole rental value of the land. “As the will takes effect at the death of the testator, and not at the date of the will, unless it appears that it was so intended—and as it does not so appear in this case—it was right to estimate the rent to the time of the death of the testator.”

Torts of Employees—Liability of Principal.—In *Gillingham v. Ohio River Railroad Co.* 14 S. E. Rep. 243 (W. Va.), the conductor of the defendant's train caused the arrest of the plaintiff, who at the time of arrest was an orderly and well behaved passenger. The arrest was made by a police officer upon the request and under the directions of the conductor, who was mistaken in supposing the plaintiff to be the person who a short time before had made an assault upon him. The arrest was insisted upon by the conductor, although the plaintiff and a fellow passenger stated that he (the plaintiff) was not the person who had made the assault. Both the assault and the arrest were made at a time when the conductor was not required or expected by the defendant to perform duties as a conductor, but he was on and about the train acting in that capacity. The conductor testified at the trial that the act of pointing out the plaintiff to the officer who made the arrest was a personal one, and that the arrest was made while he was off duty as a conductor. However, it was held that, he being on the train, and acting and speaking as one in charge, receiving passengers and making reading to start, the defendant was responsible for his acts consistent with his duties as a conductor.